

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 11, 2002

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 11, 2002, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Jerry Michaelis, Chair; Bud Hentzen, Vice-Chair; Ron Marnell; Don Anderson; Dorman Blake; Frank Garofalo; Ray Warren; James Barfield; John McKay, Jr. and Elizabeth Bishop. Kerry Coulter; Bill Johnson; Harold Warner and David Wells were not present. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Donna Goltry, Principal Planner; Jess McNeely Associate Planner; Jamsheed Mehta, Chief Planner, Transportation Planning and Rose Simmering, Recording Secretary.

1. Approval of the MAPC minutes for June 20, 2002.

MOTION: That the minutes for June 20, 2002 be approved with a correction on page 29.

MCKAY moved, **BLAKE** seconded the motion, and it carried (8-0).

2. Consideration of Subdivision Committee Recommendations

Items 2-1 to 2-4 may be taken in one motion unless there are questions or comments.

MILLER Subdivision Items 2-3 and 2-4 should be deferred until the zoning cases are heard by MAPC, they should not be heard today.

MOTION: Items 2-3 and 2-4 are deferred at this time because the zoning cases have not been brought to us yet.

HENTZEN moved, **GAROFALO** seconded the motion, and it carried (8-0).

2/1. SUB2002-00058 – One-Step Final Plat – HIDDEN ESTATES ADDITION, located on the west side of 159th Street East and the north side of 39th Street South.

- A. Public water is available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **A 10-ft utility easement is needed along the east line of the plat.**
- B. **The site is currently served by on-site sewerage facilities and applicant intends to continue this service. City Environmental Health needs to comment on approval of the site for on-site sewerage facilities.**
- C. **City Engineering** requests a petition for extension of City sewer services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **City Engineering** needs to comment on the status of the applicant's drainage plan and on any need for the platting of floodway or drainage easements, or minimum building pads. **Minimum building pads need to be platted.**
- F. **Traffic Engineering** needs to comment on the access controls, particularly the need for a specific location for the access opening. The plat proposes one access opening along MacArthur Road. **Traffic Engineering has approved the access controls.**
- G. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- H. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #107) and its special conditions for development on this property.
- I. On the final plat, the MAPC signature block needs to reference "J.D. Michaelis, Chair".
- J. The final plat shall be submitted with a revised name as an Addition now within Wichita exists with the name "Shaver Addition".
- K. **County Surveying** has noted that in the legend the property corner symbols need to be differentiated.
- L. **County Surveying** has noted that the benchmark needs city datum.
- M. **County Surveying** has noted that the Wichita Valley Center Flood Control language needs to be removed from the face of plat and platlor's text. Arkansas River Flood Control right-of-way language needs to be added with recording data.

- N. **County Surveying** has noted that the legal description needs to reflect the owner's deeds and then can be more particularly described as the legal shown.
- O. **County Surveying** has noted that MacArthur Road needs recording data.
- P. The Applicant is reminded that a platting binder is required with the final plat tracing. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/2. SUB2002-00048 – One-Step Final Plat – SHAVER ADDITION, located east of I135, on the north side of MacArthur Road.

- A. Public water is available to serve the site. **City Engineering** needs to comment on the need for guarantees or easements. **A 10-ft utility easement is needed along the east line of the plat.**
- B. **The site is currently served by on-site sewerage facilities and applicant intends to continue this service. City Environmental Health needs to comment on approval of the site for on-site sewerage facilities.**
- C. **City Engineering** requests a petition for extension of City sewer services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. **City Engineering** needs to comment on the status of the applicant's drainage plan and on any need for the platting of floodway or drainage easements, or minimum building pads. **Minimum building pads need to be platted.**
- F. **Traffic Engineering** needs to comment on the access controls, particularly the need for a specific location for the access opening. The plat proposes one access opening along MacArthur Road. **Traffic Engineering has approved the access controls.**
- G. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- H. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #107) and its special conditions for development on this property.
- I. On the final plat, the MAPC signature block needs to reference "J.D. Michaelis, Chair".

- J. The final plat shall be submitted with a revised name as an Addition now within Wichita exists with the name "Shaver Addition".
- K. **County Surveying** has noted that in the legend the property corner symbols need to be differentiated.
- L. **County Surveying** has noted that the benchmark needs city datum.
- M. **County Surveying** has noted that the Wichita Valley Center Flood Control language needs to be removed from the face of plat and platlor's text. Arkansas River Flood Control right-of-way language needs to be added with recording data.
- N. **County Surveying** has noted that the legal description needs to reflect the owner's deeds and then can be more particularly described as the legal shown.
- O. **County Surveying** has noted that MacArthur Road needs recording data.
- P. The Applicant is reminded that a platting binder is required with the final plat tracing. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- Q. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Y. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Z. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: Approve items 2-1 and 2-2, subject to recommended conditions.

HENTZEN moved, **GAROFALO** seconded the motion, and it carried (8-0).

Items 3-1 and 3-2 may be taken in one motion, unless there are questions or comments.

MOTION: Approve items 3-1 to 3-2, subject to recommended conditions.

HENTZEN moved, **BLAKE** seconded the motion, and it carried (8-0).

Commissioners Barfield and Marnell in at 1:35 p.m.

3/1. VAC2000-00050 – Request to vacate a 20-foot Utility Easement.

OWNER/APPLICANT: Sam's Real Estate Business

AGENT: Austin Miller c/o Kim Edgington

LEGAL DESCRIPTION: The platted 20-foot utility easement running adjacent and parallel to the platted 50-foot building setback as recorded on Lot 1, Block 1, Comotara Power Center 2nd Addition and the 50-foot pipeline easement as dedicated by separate instrument, Film 1021, Page 700

LOCATION: Generally located northwest of the K-96 – North Rock Road intersection

REASON FOR REQUEST: Construction of a restaurant

CURRENT ZONING: Subject property and properties to the north and east are zoned LC Limited Commercial. Property to the west is zoned MF-29 Multi-Family Residential. Property to the south, across K-96, is zoned MF-18 Multi-Family Residential And LC Limited Commercial

The applicant is building a restaurant. The applicant is applying for vacation of the platted 20-foot utility easement that runs adjacent to and parallel to the platted 50-foot pipeline easement. The applicant has submitted dedication of a 20-foot utility easement within the 50-foot pipeline easement (dedicated by separate instrument) to cover an existing sanitary sewer easement and manholes within the 50-foot pipeline easement. The applicant has supplied a letter from the Farmland Industries Pipeline and Transportation Company, stated their acceptance of the location of the sanitary sewer and manholes within their easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 20, 2002, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described portion of the platted 20-foot utility easement and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portions of the platted 10-foot utility easements described in the petition should be approved subject to the following conditions:
- (1) A Lot Split be recorded with the Register of Deeds.
 - (2) Dedication by separate instrument of a 20-foot utility easement to cover existing sanitary sewer and manholes within the platted 50-ft pipeline easement is recorded with the Register of Deeds.
 - (3) The applicant guarantee that no utilities remain in the proposed vacated easement.
 - (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (5) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **BLAKE** seconded the motion, and it carried (8-0).

3/2. VAC2002-00021 – Request to vacate portions of 10-foot platted utility easements.

OWNER/APPLICANT: Catholic Diocese of Wichita

AGENT: Baughman Company, PA c/o Phil Meyer

LEGAL DESCRIPTION: See attached legal

LOCATION: Generally located northeast of the K-42 – MacArthur Road intersection, 134 West Peter.

REASON FOR REQUEST: Development of the adjacent northern & eastern property.

CURRENT ZONING: Subject property and properties on the north, east and west are zoned SF-20 Single Family Residential. Property to the south is zoned SF-20 and Single-Family Residential & GC General Commercial.

The applicant proposes to build on the unplatted adjacent northern and eastern property. The development is an expansion of existing church facilities and will include platting of the adjacent northern and eastern property into St. Peter the Apostle Catholic Church 2nd Addition. Per the legal description the proposed vacated easements will be:

- (a) The approximately 275.08-ft length of the 10-foot utility easement running adjacent to the southwest portion of the proposed St. Peter the Apostle Catholic Church 2nd Addition and entirely contained in Lot 1, St. Peter the Apostle Catholic Church Addition.
 - (b) The approximately 772.75-ft length of the 10-foot utility easement running adjacent to the southern portion of the proposed St. Peter the Apostle Catholic Church 2nd Addition and entirely contained in Lot 1, St. Peter the Apostle Catholic Church Addition.
- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 20, 2002, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described portions of the platted 10-foot utility easements and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portions of the platted 10-foot utility easements described in the petition should be approved subject to the following conditions:
- (1) Vacate only those portions of the platted 10-foot utility easements as described in the legal description and as recorded on the St. Peter the Apostle Catholic Church Addition.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

HENTZEN moved, **BLAKE** seconded the motion, and it carried (8-0).

4. **CON2002-00021** - Stephen and Alice Jett (owners) request a Conditional Use to allow a rural home occupation on less than 20 acres on property zoned "RR" Rural Residential on property described as:

That part of the Southwest Quarter of Section 1, Township 26 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as:

Beginning at a point on the West line of said Southwest Quarter with an assumed bearing of North 00 degrees 00'00" East, on said line a distance of 1800.00 feet north from the Southwest corner of said quarter; thence continuing North 00 degrees 00'00" East, on said West line, a distance of 420.00 feet; thence North 86 degrees 44'10" East, parallel with the South line of said Southwest Quarter, a distance of 569.50 feet; thence South 00 degrees 00'00" West parallel with said West line, a distance of 420.0 feet; thence South 86 degrees 44'10" West, parallel with said South line, a distance of 569.50 feet to the point of beginning, subject to a road right-of-way on the West. East of 135th Street West and north of 69th Street North. Generally located on the east side of north 135th Street West, north of 69th Street North and K-96 (7260 North 135th Street West); within the Colwich area of influence.

BACKGROUND: The applicant is requesting a Conditional Use for a rural home occupation on a 5-acre un-platted tract located on the east side of north 135th Street West, north of 69th Street North and K-96. All property surrounding the application area is zoned "RR" Rural Residential. Surrounding the application area to the north, east, and south is one piece of property under agricultural production. To the west of the application area are two large lot single-family residences, these two residences lie within 500 feet from the location of the proposed Conditional Use building. Additional large lot residences lie to the north and south of the application area.

The application area is zoned "RR" Rural Residential and developed with a single-family residence, two accessory garages of 960 and 720 square feet, a third 1,800 square foot garage is planned to house the proposed Conditional Use. The application area is served by a private well and a septic tank / lateral field sewage system.

The application area is in the Equus Beds Groundwater Management District #2, a water source for the City of Wichita, and therefore raises concerns about hazardous material management for the requested use. The Equus Beds District staff considers this area a "sensitive" groundwater area. Sedgwick County Environmental Code, and both County and Kansas Department of Health and Environment (KDHE) policies prohibit any commercially generated waste, to include effluent from commercial floor drains, from being discharged into lagoons or septic systems. KDHE requires a hazardous material license for any business generating more than 55 pounds of hazardous material per month. Waste oil and/or antifreeze from only a few cars will add up to 55 pounds. Sedgwick County Code Enforcement and Fire Department require building approval for the proposed use.

Planning Staff has received one letter in opposition to the conditional use from a neighbor north of the application area (see attached).

CASE HISTORY: This property, under the current applicant/owners, sought and received a Conditional Use for a dog-breeding kennel (CU 340) which became effective on March 8, 1991. CU 340 was then revoked by the Sedgwick County Department of Code Enforcement on October 14, 1991 as a result of failure to comply with the conditions. The owners filed for reconsideration of

the kennel Conditional Use, but were informed on October 18, 1991 that Section 17(C)(8) of the County Zoning Resolution prohibits the refilling of a conditional use permit case within one year following the advertised public hearing date of a similar application. CU 340 for a dog breeding kennel now remains revoked.

The applicant informed Planning Staff that he has been operating a vehicle repair and transmission rebuilding business on the application area for approximately four years.

The applicant requested a building permit, for the proposed Conditional Use, on December 4, 2001. The building permit application states that it is for a 30x30 foot metal storage and hobby building to be used for residential storage with no commercial use. The current Conditional Use application site plan shows this same building as a 30x60 foot building, County Code Enforcement has since inspected the site and found that the building was built to 30x60 feet, and was moved into illegally without a required inspection.

On January 11th, 2002, Sedgwick County Code Enforcement responded to a neighbor's complaint at the application area of "large numbers of vehicles and a transmission shop". The inspector found inoperable cars and an operating transmission shop; the applicant told the inspector that the property was under a Conditional Use for a rural home occupation. County Code Enforcement later informed the applicant that the Conditional Use was for a dog breeding kennel (which Staff now knows to be revoked) and not for any form of vehicle repair. County Code Enforcement informed the applicant that a Conditional Use for vehicle repair would be required in order to continue to operate his business.

The applicant filed a Conditional Use application with MAPD on April 18th, 2002. The application states that it is for a home based business Conditional Use on less than 20 acres with 1 to 2 non-resident workers in the existing 30x60 foot building.

The application area is within the City of Colwich Zoning Area of Influence. The City of Colwich Planning Commission heard this Conditional Use Request on May 28, 2002. One neighbor spoke in favor of the request, two neighbors spoke in opposition to the request. One of the opposing neighbors produced a Declaration of Restrictions which lists conditions, covenants, and restriction on 70 acres, to include the application area. The restrictions include "No business structure shall be erected or business or profession of any nature conducted on the land herein described...". The Colwich Planning Commission moved to recommend denial of the Conditional Use request, based on the MAPD recommendation. The motion passed by a vote of 4 to 3, with one commissioner abstaining because of his late arrival.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" agricultural fields
SOUTH: "RR" agricultural fields
EAST: "RR" agricultural fields
WEST: "RR" agricultural fields, single family residences

PUBLIC SERVICES: The property is located along north 135th Street West, a two-lane, section line, gravel road with a 50 foot half-width right of way adjacent to the application area. No traffic count is available for this section of 135th which dead ends approximately 800 feet north of the application area. The property has one drive entrance onto 135th.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide", amended in January 2002, of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural."

The *Wichita-Sedgwick County Unified Zoning Code* states that home occupations "...are intended to permit residents to engage in home occupations that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential and rural areas."

The Zoning Code permits "Automobile painting, upholstery, rebuilding, renovation, reconditioning, body and fender works, and overhaul conducted entirely within an enclosed structure with no outdoor storage of vehicles, parts, or equipment;" as a rural home occupation "by right" on parcels of 20 acres or greater, and further than 600 feet from dwellings without home occupations. Because the application area is less than 20 acres, and is less than 600 feet from other dwellings without home occupations, a Conditional Use is required for a rural home occupation.

The Zoning Code limits rural home occupation accessory structures to a floor area equal to the floor area of the principle residence, or up to 3,000 square feet, whichever is greater. The application area residence is recorded as 1,292 square feet and has an attached garage. The applicant requests that the Conditional Use take place in the proposed 1,800 square foot building; however, the application area already has an additional 1,680 square feet in two accessory structures. All of the accessory structures combined would exceed the allowable 3,000 square foot limit. To allow a Conditional Use in only the one accessory structure would be difficult to enforce.

RECOMMENDATION: The Comprehensive Plan identifies this area as "rural"; as such, this area does not have the infrastructure or facilities to accommodate intense commercial use. The Zoning Code clearly intends to protect rural areas and residents from incompatible land uses and the adverse effects of commercial activities. If the application area were the required 20 acres, with the required 600-foot distance from the use to other residences, it would be permitted "by right" and would most likely have little to no adverse affects on neighbors, provided the requirements of the Unified Zoning Code were adhered to. However, the nature of this requested Conditional Use would produce noise, odors, and traffic which would adversely affect the nearby residential neighbors on 135th Street. The size of the proposed Conditional Use building, along with the two proposed outside employees, would result in a significant intensity of business. County Code Enforcement has advised Planning Staff that even the minimum requirements of the Zoning Code, such as limiting the Conditional Use to 3,000 square feet, or prohibiting any outdoor storage, would be difficult to enforce. Neighbors have already expressed opposition to the proposed Conditional Use; they desire a rural residential area without the incompatible business of vehicle repair.

Therefore, it is recommended that this Conditional Use request be DENIED. But, if in the opinion of the MAPC this Conditional Use request is appropriate for this location, the planning staff recommends approval only if the site plan is revised, and under the following conditions, listed 1-9. The site plan should be revised to eliminate the 9,506 square foot parking area; and add landscape screening of evergreen trees, spaced no more than every 30 feet, along the north and south property lines of the application area.

Planning staff feels that several significant conditions should be used to protect the Equus Bed Groundwater Management District #2 from hazardous materials. Equus Bed Groundwater Management District #2 staff concurs with planning staff, and recommends that the applicant be required to obtain a hazardous material license from KDHE.

1. The rural home occupation shall be for the uses permitted under "vehicle repair, limited", as defined by the Wichita-Sedgwick County Unified Zoning Code, only.
2. The rural home occupation and all associated storage shall take place in the designated 30x60 foot garage only; no associated storage or activity shall take place in other buildings or outdoors.
3. Outdoor storage of vehicles, equipment, parts, waste, waste containers, or any other associated items is prohibited. All vehicles associated with the conditional use shall be stored inside the proposed 30x60 foot building.
4. Non-resident additional employees shall be limited to a maximum of two.
5. The applicant shall have the proposed building inspected by county code enforcement and the county fire department to ensure that it meets all applicable codes, policies and standards. These inspections shall be completed and approved prior to operation of the Conditional Use.
6. The applicant shall develop a hazardous material waste storage and disposal plan to meet all applicable codes, policies and standards. This plan shall include the safe storage of all commercial waste; the prevention of any commercial waste from entering the application area septic tank, lateral field, or soil, to include floor drain waste from the proposed building; and the safe containment of any spilled commercial waste. This plan shall be approved by KDHE prior to operation of the Conditional Use.
7. The applicant shall submit the "Regulated Waste Activity Notification" form to the Kansas Department of Health and Environment, and obtain a regulated waste license from the Kansas Department of Health and Environment.
8. Development and maintenance of the site shall be in conformance with the approved site plan.
9. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is zoned "RR" and used for agricultural or rural residential uses; two residences exist at less than 500 feet to the west of the proposed use building. The proposed Conditional Use of vehicle repair is out of character with the surrounding area.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which primarily permits large lot residential uses. The site could continue to be used as developed for a residence without the requested Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed Conditional Use would subject neighbors directly across 135th to commercially generated noise, odors, and traffic. Hazardous waste spillage from the proposed Conditional Use would put neighbors' wells, as well as the rest of the Equus Beds groundwater, at risk.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is not in conformance with the Comprehensive Plan; this area is designated as "rural", and is therefore not appropriate for the requested intense commercial use. This request is not in conformance with the *Wichita-Sedgwick County Unified Zoning Code* in that the proposed use would subject nearby residences to incompatible land uses and the adverse effects of commercial activities. The Zoning Code minimum standards for rural home occupations would be difficult to enforce on this property.
5. Impact of the proposed development on community facilities: The requested use would impact the dead-end, un-paved North 135th Street West with commercial traffic. It could also potentially impact the Equus Beds Groundwater, and neighboring wells, with commercial hazardous waste.

JESS MCNEELY, Planning Staff, presented the staff report. He noted this case was deferred from the MAPC hearing of 6-6-02. Colwich heard this request on 5-28-02 and recommended denial 43, based on MAPD recommendation and neighborhood opposition. Three letters of opposition have been received.

MCKAY I would like to hear from County Code Enforcement.

GLEN WILTSE County Code Enforcement, You have questions for me?

MCKAY Staff made a comment that it would be hard to take care of this situation, why is that?

WILTSE The outside storage of vehicles is the issue. How will we know how long those cars will be out there? Ten days? A month? The storage problem of the vehicle waiting for repair is a concern.

HENTZEN In the material given us, they got the building permit, and it also tells us that the building grew in size. Would you tell me what inspections, and how many inspections, are required on that building?

WILTSE More than one inspection is done. The first inspection would look at footings and setbacks from the property lines. The second inspection would be the electrical before any walls are covered. We look at the plumbing and the air conditioning. The

applicant did indicate he was going to have an oil fire of some kind. Those are basically approved. Then you have a final inspection of the actual structure after it is completely built.

] HENTZEN How many inspections were done on this building?

WILTSE Three to five possibly, that was just a shell building.

HENTZEN Were these inspections called for when it was built?

WILTSE Not that I know of.

GAROFALO What was it that brought your attention to this property?

WILTSE We had a complaint from the neighborhood.

GAROFALO Back several years ago when the original Conditional Use was revoked, was the applicant advised at that time that he could not operate anything illegally?

WILTSE I don't know. That was prior to me working for the County.

GAROFALO So, you didn't know this was an illegal operation?

WILTSE That is what brought it forward, when the permit for the building was issued and then with the neighborhood complaining about the business.

GAROFALO Any idea or information about the other Conditional Use problems?

WILTSE No, I don't have that information with me today.

MCNEELY It is in the staff report.

BISHOP So the applicant applied for the permit, and applied for the plan of using it as a business?

WILTSE When we went out on the site after the complaint from the neighborhood we realized a home occupation was being illegally performed.

BISHOP When you went out to inspect it the building was bigger than it was suppose to be?

WILTSE That is correct. The inspections are required. We were never called by the owner of the property prior to the building being completed.

BISHOP You don't have a tickler file to put a flag up when something is filed to follow through on the process?

WILTSE We never know before it is done. We rely on the applicant to follow the rules and regulations and get the necessary inspections on a timely basis.

HENTZEN The Conditional Use that was revoked, that had to do with dog kennels not with this building at this time?

WILTSE That is my understanding.

HENTZEN You didn't know about that original CU 340, and that it was for a dog kennel and it was granted by MAPC? But during the same year, CU 340 was revoked by the County Code.

WILTSE That is correct.

HENTZEN That had nothing to do about the current building?

WILTSE That is correct.

BARFIELD Was that Conditional Use permit given to the same person as now with the transmission shop?

WILTSE That is my understanding.

BOB KAPLAN Kaplan, McMillian and Harris, 430 N. Market, Wichita, KS 67202: I am going to have to get on my soapbox. Every individual on every case is able to start out even, and I must say that I verified with Mr. Wiltse that there was a contractor hired that made a lot of errors. All of those building violations and citations have been approved and corrected. The ten-year old dog kennel Conditional Use was Mrs. Jett's idea. It was revoked because she didn't have the money to run the Conditional Use. It had nothing to do with violations. I want to do four things so that Mr. Jett can start out evenly. First of all, Mr. Jett is not experienced in this kind of proceeding. He did not know what he was doing. He did get help from staff filling out the application. Then he goes to the Colwich Planning Commission by himself, and he has no copy of the staff report, and he sees this going down because he didn't have a staff report.

We are willing to make this workable. There are no conditions in this report that we can't live with. I don't need two employees. I only need one employee. I don't need 3,000 square feet of area. I need 1,800 square feet.

Condition #2 Glen says enforcement will be hard when vehicles are there. You can't hide vehicles. I don't believe that it would be hard to enforce if Glen had more staff. Chase, Koch pipeline is what caused the pollution out there. I did bring an attorney who knows a lot about pollution. Nobody is going to buy land out there. Things will be taken off-site to burn. Mr. Jett can't have a business and he has operated without complaint for four years before today.

Mr. Tauber's property is 1/8 of a mile away. Staff is entirely incorrect in suggesting that there is hazardous material, and that it would affect the Equus beds. That is not Mr. Jett's problem. It is Chase and Koch's problem. I made a mistake when I asked for a continuance because I should have requested to send this case back to Colwich Planning Commission. Mr. Jett was told he was a polluter. We do not require a hazardous material license.

Kaplan reviews material he provided to the Commission as a handout and states he thinks this case has been completely overblown out of perspective.

MICHAELIS You made reference to Bailey Construction. You have a copy of the staff report. Would you look at the building permit application, about the sixth page of the application.

KAPLAN That is incorrect. It was not Mr. Jett. It was Bailey Construction. I have a client that can change transmissions, not fill out paperwork and everything else. If he would have had a better presentation, we wouldn't be here today.

BARFIELD Were these support letters in your packet solicited by you?

KAPLAN Most of these people are in the area, but some are not in the notice area. The Pipe Company is requesting Schell's support that they don't mind a transmission shop out there. There is nothing going to happen out there.

GAROFALO Mr. Kaplan, you said that Mr. Jett has operated for four years without any complaints. Then Mr. Wiltse said they went out there because of complaints from the neighborhood.

KAPLAN What prompted this was the Conditional Use application. He didn't have any complaints until the building was put up.

GAROFALO When the building went up, that is when the complaints started?

KAPLAN Yes. I don't know what the complaints are.

MCNEELY They are in the staff report.

GAROFALO I wasn't sure when the complaints were received.

KAPLAN With this application and the building went up, then the complaints started. Not when he was working in the garage.

DEPEW AND GILLEN, LLC, Attorney at Law, %Randall Rathbun, 151 N. Main, Wichita, KS 67202: I would be happy to answer any questions about the hazards out there.

MARNELL If you hired a building contractor to build you a building, would you expect them to know what to do?

RATHBUN I do hire people and I assume that the people I hire will do what is supposed to be done. I assume that they will call the county and they will get the proper permits.

MARNELL I would do the same. I am not a builder and I wouldn't have known whom to call. That is why I would hire somebody.

HENTZEN We spent a whole hour here on the Equus beds from the "brown bag" lunch. The pipeline polluted the area out there.

RATHBUN I have done work with environmental issues on a lot with a residence. I just started my work on this case when Mr. and Mrs. Jett found out that their ground water is polluted. I don't represent polluters. I would not represent Mr. Jett if I thought he was a polluter. I am going to do everything I can to get the pollution cleaned up there. That pipeline has leaked since the 1980's.

WARREN It is not likely that this 70 acres will be developed in residential. What kind of time frame would you estimate for the pollution to be cleaned up?

RATHBUN I can tell you the Furley case is in excess of 20 years old. Folks won't build next to it. Groundwater will stay polluted unless it is continuously flushed. Banks don't like to loan money on the land that is polluted.

WARREN So it is not likely to have residential development out there?

RATHBUN Probably the grandkids might see it, but not in our lifetime.

TERRANCE A. MCCLURE, 6900 N. Maize Road, Maize, KS 67101: I own five acres out there. Nobody told me to come here today. It is one thing to work in your garage, and then it is another thing to operate a business. The automotive business is a dirty business. My brother is going to come back when he retires from an automotive business. We are against this because it is just not right. This is just not legal, and you have two votes against it.

BISHOP I noticed there was letter in support of the Conditional Use application from a Richard McClure in Kaplan's packet. Do you know who that is?

MCCLURE Yes, that is my mom and dad. The county has an obligation to protect us. We are not worried about the contamination.

THERESA TAUBER, 13420 W. 69th North, Colwich, KS 67030: We signed a restrictive covenant when we bought our land. The application area is in the same area covered by the restrictive covenant. Mr. Jett knew that there would be no business outside there. The building contains a car lift. Mr. Jett owned a transmission shop in Hutchinson. It seems to us that he would know how to operate and get proper permits. Some of these cars have been out there for six months. We do have concerns about the fluids and about the replacement parts. During the meeting in Colwich, he said he gave his friend the waste to burn, but you can't just give the oil to just anyone.

Routine trucks will be out there, UPS trucks, etc. If this is approved, it will just open the door to more of the same. We believe this would be negative to our neighborhood. We are completely opposed to this Conditional Use.

BLAKE How long have you been out there?

TAUBER Twelve years.

BLAKE Before Mr. Jett moved in?

TAUBER Yes.

KAPLAN Rebuttal, please. Let me make a few comments. What I am distressed about, I would like to have you try to look at the land use and not the land user. A Conditional Use is permitted in the RR zoning. We are short of acreage and 600 feet from other houses. I understand that right across the road from Taubers' there is another car repair place there. The restrictive covenant is a private thing, and if she believes those covenants are enforceable then she can get an injunction. But, we are here today for a Conditional Use.

BISHOP I have a question for Mr. Wiltse. Mr. Jett was operating illegally a transmission shop for several years. The December 2001 building permit says metal storage and hobby usage. The reason I ask, is there anything within your building permit process that triggers for you that a Conditional Use needed to be done? There was nothing on this building permit to alert you?

WILTSE That is why we put on there residential, not a business. That is what triggers that there is an accessory use type. There is a page on the document that will ask if it is residential or business use.

BISHOP You thought this was going to be residential?

WILTSE That is what the permit was for, residential purposes.

BLAKE It says no commercial use on this permit.

WILTSE That is correct.

GAROFALO You did not expect this to be used for business use.

WILTSE We did not think this would be used for commercial use.

GAROFALO I was looking through the book here, I would like to have some kind of description of what a rural home occupation is.

MILLER In the code there is a list of uses permitted as home occupations. Out in the county there are additional particular uses that are permitted as rural home occupations. This is one of those.

KROUT One of the main reasons for adding a lot of potential businesses to rural areas was to help farmers who needed supplemental money to help them stay on their land. If you had land and equipment, and the know how, we thought it would be a good idea if it was over 20 acres to use it as a permitted use by right.

BISHOP The staff report says KDHE says something about the hazardous use permit being needed.

KAPLAN You have a report in my book. There is no KDHE license required in this application, nor is there any quantity of hazardous material being used in this operation.

BISHOP Did you ask KDHE if he needs a license?

KAPLAN There is material in there, but I believe that the material under tab 2 is the material that was submitted. I am responding that the material in tab 2 and tab 3 from KSU says he does not need a license.

BISHOP It looks like on page 2 he has filed something here.

KAPLAN I don't know. I do believe that there is not a violation. We can get the license.

BISHOP Twenty to 30 gallons a month, that is close to the fifty

KAPLAN This is for transmission repair. They come in dry and they go out dry. We don't work with transmission fluid. Commercial transmission repair for service shops, yes. The transmission repair really doesn't involve the entire vehicle.

WARREN Is it your position that staff Condition #6, and Condition #7 are not required?

KAPLAN My opinion, based on the information from my client, is I do not think that they should be required. Mr. Rathbun will draw up a new plan.

WARREN So you are not opposing any conditions.

KAPLAN Not at all. We agree with the conditions in the staff report.

WARREN It is not uncommon to make landscape requirements. Do you think you can do some of that?

KAPLAN Mr. Jett is willing to fence. We are willing to make it subject to approval of a landscape plan and a fence requirement. This is Mr. Jett's livelihood. It is a career ending decision if he doesn't get this Conditional Use.

BARFIELD You are saying that he can't go to another location?

KAPLAN He is not retired exactly. He has a low budget. He can't afford to move to a commercial business location.

BARFIELD He is basically doing a whole operation that doesn't seem low scale to me.

KAPLAN He does a few more than 15 transmission repairs a month. They bring them in on a truck and they take them out on a truck.

MICHAELIS Is the Hutchinson operation still working?

KAPLAN No, the Hutchinson operation is not operating.

GAROFALO I am not only concerned about the Conditional Use, but many times the applicant doesn't comply with all the conditions. Like with the permit, he said this was a residential use, not a commercial use.

KAPLAN He turned the matter over to Bailey Construction. He did what Bailey told him to do. I wish Mr. Bailey was here to accept responsibility for this.

BISHOP I am ready to make a motion.

MOTION: The application be denied based on the findings in the staff report.

BISHOP moved, **BLAKE** seconded.

WARREN I am going to oppose the motion based on the fact that this business has been operating for four years. I can understand he made a mistake.

BISHOP With all due respect, to use that rationale, it is still an invalid use.

WARREN We grant home occupations regularly.

MARNELL I have made some mistakes in my life. This is a building permit problem. I think that may be a factor in this case. I look at the buildings and the kind of operation that is going on. There are plenty of farm buildings out there and they probably have nothing to do with the operation. I don't think this is out of character. We are not talking about a used car lot. I am not going to support the current motion.

BARFIELD It appears that on the application this was put down as a hobby use. A commercial business is anything that makes money. This is commercial use.

VOTE ON THE MOTION TO DENY: It carried 6-4 (**WARREN, MARNELL, HENTZEN** and **ANDERSON**)

KROUT The Planning Commission action is final unless the applicant appeals the action with 14 days.

4. **ZON2002-00027-** Vern and Toni Holzman (owner/applicant); Baughman Company, P.a., c/o Russ Ewy (agent) requests a Zone Change from "SF-20" Single-Family Residential to "LC" Limited Commercial and a Protective Overlay to permit retail sales of vehicle parts as part of a home-based vehicle repair business on property described as:

A tract of land in the NW 1/4 of Section 3, Township 28, Range 2 East described as follows: Commencing at the SW corner of said NW 1/4; thence north along an assumed bearing of N 00 degrees E of a distance of 211.69 feet to the point of beginning; thence N 90 degrees E, 382 feet; thence N 00 degrees E, 123 feet; thence N 90 degrees W, 142 feet; thence S 00 degrees W, 93 feet; thence 90 degrees W, 240 feet to a point on the west line of said NW 1/4; thence S 00 degrees W along said west line, 30 feet to the point of beginning; except the west 60 feet thereof. Generally located East of Greenwich Road; 1/2 mile south of Pawnee.

BACKGROUND: The applicant is requesting a zone change from "SF-20" Single-Family Residential to "LC" Limited Commercial. The applicant also is requesting a Protective Overlay District (see attached letter dated June 20, 2002) to limit uses on the property to those permitted in the "SF-20" Single-Family Residential district plus retailing of automotive parts and accessories and to limit use

of the subject property to the rural home occupation regulations except the regulation prohibiting the inventory and sale of merchandise not manufactured on site.

The character of the surrounding area is primarily rural with some suburban scale development in the general vicinity. The property surrounding the subject property in all directions is zoned "SF-20" Single-Family Residential and is used for agriculture. Properties further to the north, closer to Pawnee, are developed with churches, retail uses, and single-family residences on suburban scale lots.

The subject property is a 0.53 unplatted tract in a flag lot configuration that is part of a 54 acre parent tract owned by the applicant. The applicant proposes to tie the area requested for rezoning with an adjoining residential tract in a more traditional lot configuration through a restrictive covenant. The size of the residential tract together with the proposed commercial tract will be determined at the time of platting, but likely will be at least 4.5 acres due to zoning regulations pertaining to sewage lagoons.

The subject property is located approximately one-half mile south of Pawnee on the east side of Greenwich. The parent tract is currently developed with a single-family residence, an accessory structure that houses a vehicle repair business, and another accessory structure housing personal property of the applicant. The vehicle repair business meets the rural home occupation regulations with the exception that vehicle parts are inventoried and sold to customers not receiving vehicle repair services. Therefore, the applicant's current use of the subject property is illegal. The applicant could request a Variance of the home occupation regulation prohibiting retail sales; however, planning staff advised the applicant to request a zone change since a Variance request likely would not meet the criteria necessary for granting a Variance.

CASE HISTORY: The applicant's request was deferred by the MAPC on June 13, 2002 to allow the applicant time to modify the provisions of the requested Protective Overlay District.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20" Agriculture
SOUTH: "SF-20" Agriculture
EAST: "SF-20" Agriculture
WEST: "SF-20" Agriculture

PUBLIC SERVICES: The subject property has access to Greenwich, a two-lane arterial street with current traffic volumes of approximately 3,200 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Greenwich will increase to approximately 5,300 vehicles per day. Municipal water and sewer service are not available to serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan indicates that the area is appropriate for "Low Density Residential" development. The subject property is outside the 2010 Urban Service Area, but within the 2030 Urban Service Area. The Commercial Locational Guidelines indicate that commercial uses should be located in compact clusters or nodes rather than at mid-mile, single-site locations such as the subject property, which would create a trend toward strip commercial development of the arterial frontage or hinder the logical development of surrounding property with residential uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be subject to platting within one year and the following provisions of a Protective Overlay District:

1. The subject property shall be limited to all uses of the "SF-20" Single-Family Residential district and "vehicle repair, limited", as defined by the Wichita-Sedgwick County Unified Zoning Code, and the retailing of specialty automotive parts and accessories.
2. The subject property shall be maintained in accordance with the following standards:
 - a) No alteration of the existing subject building or premises shall be made that changes the character or appearance thereof.
 - b) The 800 square foot retail area contained within the existing building shall not be expanded.
 - c) There shall be no outdoor storage of equipment, parts, waste, waste containers, or any other associated items related to the uses within the subject building. All vehicles associated with the vehicle repair and part sales business shall be stored inside the subject building.
 - d) The subject property shall be tied together with the existing residential property to the south through the use of a restrictive covenant. The properties which are tied together shall include the area to be rezoned, the existing residential structure, and the sewage lagoon on a lot (or lots in aggregate) meeting the minimum size requirement of the "SF-20" district for properties with a sewage lagoon. The restrictive covenant shall prevent the subject property from being sold to an entity separate from the existing, or future, residential property owner. This restriction is to ensure that the use of the subject building will remain accessory to the principle residential use of the larger property. The restrictive covenant shall inure to Sedgwick County, shall only be amended or terminated with the approval of Board of County Commissioners, shall be in a form and content approved by the County Counselor, and shall be recorded with the Register of Deeds prior to publishing the zoning resolution.
 - e) No more than 4 persons, other than persons occupying such dwelling unit as their residence, shall be employed within the subject building.

- f) All retail sales and vehicle repair activities shall be conducted entirely within the subject building.
- g) No signs shall be permitted.
- h) Hours of operation for retail sales shall be limited to 8 am to 6 pm, Monday through Friday, and 8 am to 12 pm on Saturday.
- i) The applicant shall have the subject building inspected by County Code Enforcement and the County Fire Department to ensure that it meets all applicable codes, policies and standards. These inspections shall be completed and approved prior to publishing the zoning resolution.
- j) The applicant shall develop a hazardous material waste storage and disposal plan to meet all applicable codes, policies and standards. This plan shall include the safe storage of all commercial waste; the prevention of any commercial waste from entering the on-site sewage disposal system, to include floor drain waste from the subject building; and the safe containment of any spilled commercial waste. This plan shall be approved by the Kansas Department of Health and Environment prior to publishing the zoning resolution.
- k) The applicant shall submit the "Regulated Waste Activity Notification" form to the Kansas Department of Health and Environment, and obtain a regulated waste license from the Kansas Department of Health and Environment.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is primarily rural with some suburban scale development in the general vicinity. The property surrounding the subject property in all directions is zoned "SF-20" Single-Family Residential and is used for agriculture. Commercial zoning of the subject property is not consistent with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-20" Single-Family Residential and is suitable for the suburban residential, agriculture, and rural home occupation uses to which it is restricted. The most appropriate long-term use of the subject property is low density residential use at such time as municipal water and sewer service is extended to the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Permitting retail sales of vehicle parts and accessories on the subject property could detrimentally impact the future viability of nearby property for development with low-density residential uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan indicates that the area is appropriate for "Low Density Residential" development. The subject property is outside the 2010 Urban Service Area, but within the 2030 Urban Service Area. The Commercial Locational Guidelines indicate that commercial uses should be located in compact clusters or nodes rather than at mid-mile, single-site locations such as the subject property, which would create a trend toward strip commercial development of the arterial frontage or hinder the logical development of surrounding property with residential uses.

DALE MILLER, Planning Staff, presented the staff report, noting that the phrase "if applicable" should be added to the final two conditions of approval.

BISHOP Dale if we add the phrase if applicable, who decides?

MILLER If KDHE says they don't need these permits, then those two conditions don't apply.

RUSS EWY Baughman Company, 315 Ellis, Wichita, KS, agent for applicant: Just to give you a brief history, what are dealing with here is an auto parts store. You don't ordinarily see an Auto Zone out here. These are parts that go into high performance racing.

Staff recommendation is what they needed to produce. I can't disagree with this. But, the type of business being run there won't impair any future development. The previous staff report said something about a dirty business. This is not a dirty business. This will remain a small operation. We have agreed on all the conditions, we just want the wording "if applicable" added. We haven't been able to research the issue. We will not be needing these permits. There is a long list of zoning cases approved throughout the years similar to this. Twelve trucks, contractor storage yard, it had every strike against it, but it was still deemed a reasonable request. This is a much quieter business. This is no greater impact on road traffic. No outside storage can be seen from roads. No signage. Take a look at the last two pages (of report submitted to MAPC) from the Holzmanns. They are the property owners that you are protecting. The Holzmann's control both sides and have control of future development.

HENTZEN Any outside employees working at this location?

EWY They have their children and grandchildren working there, with one outside employee. They own the property to the half mile line. They own 50 some acres on both sides.

WARREN There are three buildings besides the house?

EWY The custom shop. The interior of that building right there, that is a personal garage. What you are seeing is the interior of that shop. They are both together. The first 800 square feet of that building is the car shop. The back portion of that is the garage.

WARREN How many customers?

EWY Five or six a day perhaps. These are automotive parts a Honda wouldn't handle.

MICHAELIS Why was this deferred from June 20th MAPC?

EWY We wanted a chance to review the conditions and try to appeal to staff to try and get staff to change the denial recommendation. There were some things that we did not come to an understanding about. In the first staff report they were concerned about platting. We were wanting to go back to the Holzman's to see if they were willing to plat more land.

MICHAELIS I think timing is everything.

MARNELL Were those built as farm buildings or commercial buildings?

HOLZMAN Hobby and home occupation.

EWY This was their hobby for 60 years. They relocated to this location when Lowe's was built on Kellogg.

HENTZEN I am aware of this problem with mid-mile commercial, and I would like to find another way to let them do what they are doing. Why can't they do a home occupation?

MILLER A home occupation is self-contained. It is primarily a residential use. The operations are so small they don't hurt anything. Look at the staff report. It is the retail sales that is getting them in trouble.

HENTZEN I was on the Commission when we adopted that home occupation language. When the farmers were welders and some of them could repair vehicles. There are a number of them. To now come along and say that this home occupation does not apply to them, and to force us into rezoning property so they can continue what they are doing?

MILLER They haven't been doing it here at this location.

HENTZEN I think this is what we set it up to do.

WARREN I think there is a way to stretch the home occupation. We know they have a product and they do sell it. Rather than do a rezone, we should grant a home occupation. Take Amway sales for instance, they sell out of their homes and a lot of them don't have home occupation permit.

GAROFALO Is the retail sales aspect why we can't do a home occupation?

MILLER Right, when the farmer repairs his truck and then has a neighbor come over and repairs his truck is a different story.

GAROFALO I have a problem with the rezoning too.

BISHOP With a protective overlay is there any possibility of placing a time limit on the PO? Say five years? The reason I ask is that I note that there are neighbors that have signed a petition in favor. The neighbors may not understand the rezoning process, and this is a very substantial change. The zone will run with the land, it goes on in the future.

MILLER There is not a way to put a legal time limit on it. With a Conditional Use, that is something that we could look at. This is a straight zone change.

MCKAY Look at the letter Baughman wrote, Item D. It ties the hands of the owner, does it not?

MILLER It goes a long ways.

MCKAY This is a one-user classification.

BISHOP I must confess I am a little concerned about where enforcement lies?

MILLER Sedgwick County Code Enforcement would enforce the P.O. conditions, should they sell the property to someone else.

BISHOP I don't think I have ever seen this before.

MCKAY Can we require this as a deed restriction also?

MILLER Subject to a platting requirement.

WARREN This is a restriction.

MCKAY It is not recorded.

KROUT This will be recorded and run with the property.

GAROFALO We are talking about a ½ acre change?

MILLER The area in red is the rezoning, but the applicant owns 54 acres. So what this would do is tie this tract to the whole acreage. This property will always be tied to the larger parcel.

MICHAELIS Why can't we do this as a Conditional Use home occupation? Because of retail sales?

MILLER Yes, that is correct.

WARREN Protective Overlay and restrictive covenants, are you satisfied with that.

MILLER As I read it, that is what it would do.

WARREN It is very limiting.

HENTZEN Please do not make him rezone. I think this fits under a Conditional Use permit. I am thinking that this is something that they want to zone and it is nowhere near any other businesses. I don't feel that this is a violation of what we intended in the home occupation permit. Now if it is, I hope to be involved when we do rewrite. I don't want island zoning.

WARREN I agree with you, but an applicant needs an answer. Can we make this interpretation?

KROUT I think Glen has the responsibility to answer these questions.

WILTSE I think in the past, when we have discussed this with County Legal, retail sales in this situation is a violation the way that the Code is written now. I know that we have had that discussion in the past.

WARREN We probably have hundreds of violations then.

WILTSE We do not go out and investigate unless there is a complaint, and I am sure there are plenty out there.

WARREN I think we ought to maybe approve this.

HENTZEN We can ask the owner if they can do it as a Conditional Use permit.

KROUT Code Enforcement is telling you that legally, he doesn't think that we can do it through a Conditional Use permit.

MOTION: To approve subject to the findings in the staff report and subject to the protective overlay as amended.

WARREN moved, **MCKAY** seconded the motion, and it carried (8-2) **HENTZEN** and **MARNELL** opposed.

MARNELL indicated he thought it was inconsistent to deny the previous request and approve this one.

5. **CON2002-00026** – New Jerusalem Missions, Inc. (owners); Penny Dugan (president) requests a Conditional Use to allow Group Residence General and Recreational Vehicle parking on property zoned "RR" Rural Residential on property described as:

A tract of land in lying in the Southeast Quarter, Section 20, Township 25 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas.

That part of the Southeast Quarter of Section 20, Township 25 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas, described as commencing at the Southeast corner of said Southeast Quarter; thence west, along the South line of said Southeast Quarter, 530 feet for a PLACE OF BEGINNING; thence continuing west,, along the South line of said Southeast Quarter, 580 feet; thence north, parallel with the East line of said Southeast Quarter, 1070 feet; thence east, parallel with the South line of said Southeast Quarter, 1050 feet to a point on the West right-of-way line of U.S. Highway 81 as condemned in Case No. 92066 and being a point 60 feet west of the East line of said Southeast Quarter; thence south, along the West line of said right-of-way and parallel with the East line of said Southeast Quarter, 600 feet; thence west, parallel with the South line of said Southeast Quarter, 470 feet; thence south, parallel with the East line of said Southeast Quarter, 470 feet to the PLACE OF BEGINNING. EXCEPT:

A tract of land lying in the Southeast Quarter, Section 20, Township 25 South, Range 1 East of the 6th Principal Meridian, Sedgwick County, Kansas; said tract more particularly described as follows:

BEGINNING at a point 30.00 feet North of the South line of said Southeast Quarter and 530.00 feet West of the East line of said Southeast Quarter; thence parallel with the South line of said Southeast Quarter on a assumed bearing of North 89 degrees 49'38" West, 580.00 feet; thence parallel with the East line of said Southeast Quarter, North 00 degrees 00'10" East, 440.00 feet; thence South 89 degrees 49'38" East, 580.00 feet; thence South 00 degrees 00'10" West, 440.00 feet to the POINT OF BEGINNING. Generally located North of 93rd Street North, west of Broadway.

BACKGROUND: The applicant is requesting a Conditional Use for a Group Residence, Limited and Recreational Vehicle parking in the County. The application area is a 14-acre un-platted parcel located north of 93rd Street North and west of North Broadway. Valley Center's city limits are approximately 500 feet from the application area, just south of 93rd Street North. Agricultural fields surround the application area, neighboring residences all lie over 600 feet from the proposed use sites, and the application area is

screened in all directions with existing tree hedgerows. The property is zoned "RR" Rural Residential and developed with a primary single-family residence with six bedrooms, an accessory apartment with two bedrooms, and several barns and other outbuildings. The application area is served by a private well, and septic tank / leech field sewage systems. The applicant is working with County Code Enforcement and Health Department to size and develop a lagoon sewage system to serve the proposed use.

The applicant is a faith-based mission organization which operates a non-profit hospice facility in Newton, KS. The applicant states that the Conditional Use request is to allow for staff housing and temporary volunteer housing facilities. The applicant proposes six Recreational Vehicle parking spaces to accommodate some of the temporary housing facilities. The applicant anticipates retired volunteers visiting the site with RVs.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: "RR" agricultural fields
SOUTH: "RR" agricultural fields
EAST: "RR" agricultural fields, residences
WEST: "RR" agricultural fields, residence

PUBLIC SERVICES: The property is located along North Broadway Ave., a paved four-lane section line road with a half-width right of way of 65 feet. A July 2000 traffic count on Broadway at the application area showed 2105 daily vehicle trips, the 2030 traffic projection for this section of Broadway is 3709 trips. The property has one drive entrance onto Broadway. The application area is within Rural Water District #2, but is served by an onsite well. Municipal sewer is not expected to reach the application area according to the *Valley Center Comprehensive Development Plan 2000-2010*. To reach the application area with municipal sewer would require a lift station, which is not economically feasible.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural". However, the January 2002 amended "Wichita Land Use Guide" identifies part of the application area as public/institutional, reflecting its current tax-exempt status as a faith based organization. The January 2002 amended "Wichita Land Use Guide" identifies the remainder of the application area as within the Valley Center Growth Area.

The *Valley Center Comprehensive Development Plan 2000-2010* identifies the application area's current land use as "vacant/agricultural" with a single-family residence. The *Valley Center Comprehensive Development Plan 2000-2010* designates the future land use of the application area as "vacant/agricultural", and as remaining unincorporated.

The *Wichita-Sedgwick County Unified Zoning Code* lists "Group Residence, General" and "Recreational Vehicle Campground" as Conditional Uses in the "RR" district. The applicant proposes that RV parking be used for temporary volunteers, as stated above. The Zoning Code does not provide specific conditions for either of these Conditional Uses.

The *Wichita-Sedgwick County Unified Zoning Code* defines "Group Residence" as "A residential facility providing cooking, sleeping and sanitary accommodations for a group of people, not defined as a family, on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, boarding or lodging houses, children's homes, and emergency shelters for the homeless and for victims of crime, abuse or neglect. The term "group residence" does not include "group homes" or "correctional placement residences." The Group Residence, General use allows for more than 15 persons, including staff members who reside in the facility.

RECOMMENDATION: Planning staff finds that the proposed use is consistent with the Zoning Code intent of allowing for Group Residence facilities in the "RR" district where the Conditional Use would be in character with the surrounding area, and would not have negative effects on surrounding residential neighbors. Planning staff has worked with County Code enforcement to determine appropriate conditions which would meet building and sanitation codes. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions.

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Development and maintenance of the site shall be in conformance with the approved site plan.
3. Existing tree/hedge rows along the boundaries of the site shall be preserved and trees replaced as required.
4. The Conditional Use shall be limited to a maximum of 20 persons housed in the two existing permanent structures.
5. The Conditional Use shall be limited to a maximum of six temporary Recreational Vehicles on the site; and shall be limited to a maximum of 24 persons temporarily housed in Recreational Vehicles.
6. Recreational Vehicles shall not empty sewage holding tanks into the on site lagoon, and shall not empty sewage holding tanks anywhere on the site.
7. The Group Residence, General, and Recreational Vehicle Parking on the site shall be operated for the housing of staff and volunteers working for an off-site non-profit organization, and their immediate families, and shall not be operated as a for-profit business.
8. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
9. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: All property surrounding the application area is used for agricultural purposes, the nearest residential neighbors are over 600 feet from the proposed use areas. Existing hedgerows will screen the proposed RV parking area from all directions, protecting the character of the surrounding area.

The 44 maximum residents on the 14-acre site does not exceed the density of typical urban single-family development lots.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential, which primarily permits large lot residential uses. The site could continue to be used as a residence without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Permanent Structures are not proposed to change on the 14-acre site. Provided that the proposed conditions are met, the proposed Conditional Use should have no effect on surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested Conditional Use is in conformance with the *Wichita-Sedgwick County Comprehensive Plan*, the *Valley Center Comprehensive Development Plan 2000-2010*, and the *Wichita-Sedgwick County Unified Zoning Code*.
5. Impact of the proposed development on community facilities: An increase in residents, and temporary visitors to the application area will increase traffic on North Broadway Avenue. However, Broadway was developed to four lanes at this location in anticipation of increased traffic; the relatively small amount of traffic generated by the application area should affect the capacity of North Broadway Avenue.

JESS MCNEELY Planning Staff, advised the Commission of revised conditions on #3, recommended by the Valley Center Planning Commission. The revision requires the applicant to maintain the tree/hedgerow screening which currently exists on the property. He noted that the applicant agreed to this revised condition.

PENNY DUGAN, New Jerusalem Mission, 209 E. Broadway, Wichita, KS: We agree with the revised condition.

MOTION: To approve subject to the findings in the staff report, with the amendment to Condition #3.

MCKAY moved, **BISHOP** seconded the motion, and it carried (10-0).

7. **ZON2002-00030** – Leo Rasmussen (owner/applicant) requests a Zone Change from "SF-5" Single-Family Residential to "LI" Limited Industrial on property described as:

Lot 3, Windover Addition, Wichita, Sedgwick County Kansas. Generally located North of Harry and east of Sabin.

BACKGROUND: The applicant requests a zone change from "SF-5" Single-Family Residential to "LI" Limited Industrial on a 0.36 acre platted tract located north of Harry and east of Sabin. The subject property formally was developed with a single family residence that recently has been razed. The applicant proposes to develop the subject property with an office/warehouse building for a construction business.

The surrounding area is characterized primarily by industrial uses; although, there are almost a dozen single-family residences remaining along Sabin. The property to the south and east are zoned "LI" Limited Industrial and is developed with an electrical contractor's business. The properties to the north and west are zoned "SF-5" Single-Family Residential and are developed with single-family residences.

Since the property to the north has residential zoning, screening will be required along the north property line. The buffer landscape requirements also will apply along the north property line. The compatibility setback standards will require a 24-foot building setback along the north property line unless a Zoning Adjustment is granted by the Planning Director and Zoning Administrator to reduce or waive the compatibility setback. Since the property to the west has residential zoning, the landscape street yard and parking lot screening requirements will apply to the subject property.

CASE HISTORY: The property is platted as Lot 3, Windover Addition, which was recorded April 28, 1954. Since 1974, eight zoning changes from residential to industrial have been approved in the immediate area. For each of the zoning changes approved along Sabin, additional right-of-way was required to be dedicated to bring Sabin up the width required by the Subdivision Regulations for an industrial street.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"	Single-family residence
SOUTH: "LI"	Electrical contractor's business
EAST: "LI"	Electrical contractor's business
WEST: "SF-5"	Single-family residence

PUBLIC SERVICES: The subject property has frontage along Sabin, a unpaved local street. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports. The 8-foot utility easements along the south and east property lines are 2 feet less than required by the Subdivision Regulations. The 30-feet of half street right-of-way is 5 feet less than required by the Subdivision Regulations for an industrial street.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the submittal of a "no protest" agreement for the paving of Sabin and the dedication by separate instrument of an additional 5 feet of right-of-way for Sabin and an additional 2 feet of utility easement along both the south and east property lines.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by industrial uses. Although many of the properties along Sabin are developed with single-family residential uses, this area has been identified as appropriate for industrial uses in City-County land use guides for over 40 years, and the properties along Sabin have slowly converted from residential to industrial use. The proposed "LI" Limited Industrial zoning is compatible with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-Family Residential, and was formerly developed with a single-family residence. Given the long-standing guidance provided by land use guides that this area should be developed with industrial uses, further residential development of the subject property would not be suitable and would be contrary to the community's goal of converting the area from residential to industrial use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on remaining residential properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscape street yard, parking lot screening, buffer landscaping requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting the residential properties to the north and west.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Industrial" development. The Industrial Locational Guidelines of the Comprehensive Plan recommend that industrial uses be located in close proximity to support services such as major arterials, truck routes, highways, utilities trunk lines, rail spurs, and airports. With the recommended "no protest" agreement for the paving of Sabin, industrial use of the request conforms to the Land Use Guide and Locational Guidelines of the Comprehensive Plan. The 8-foot utility easements along the south and east property lines are 2 feet less than currently required by the Subdivision Regulations. The 30-feet of half street right-of-way is 5 feet less than required by the Subdivision Regulations for an industrial street. With the recommended dedications of additional right-of-way and utility easements, the request conforms to the Subdivision Regulations.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated as long as the recommend "no protest" agreement for the paving of Sabin and the recommended dedications of additional right-of-way and utility easements are required. If these are not required, future provision of a paved industrial street and extension and/or maintenance of water and sewer utilities in the area could be hindered.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (10-0).

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8. **CON2002-00027** – Woodland Lakes Community Church c/o Harlan Buettner (owner/applicant); MKEC Engineer Consultants c/o Greg Allison (agent) requests a Conditional Use for a Day Care (Preschool) on property zoned "SF-5" Single-Family Residential on property described as:

Lot 1, Block 1, and Reserves "A", "B" and "F", in Cedar View Addition, an Addition to Wichita, Sedgwick County, Kansas. AND A tract in the Northwest Quarter of Section 27, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning 850 feet north of the Southwest corner of said Northwest Quarter; thence east parallel to Kellogg Street, a distance of 347 feet; thence north parallel to the West line of said Section, a distance of 480 feet; thence west parallel to Kellogg Street, a distance of 347 feet; thence south parallel to the West line of said Section, 480 feet to the place of beginning, EXCEPT that portion taken by the Kansas Turnpike Authority, AND EXCEPT the west 50 feet thereof for road. AND A tract in the Northwest Quarter of Section 27, Township 27 South, Range 2 East of the Sixth Principal Meridian, Sedgwick County, Kansas, described as follows: Beginning 635 feet north of the Southwest corner of said Northwest Quarter; thence east parallel to Kellogg Street, a distance of 347 feet; thence south parallel to the West line of said Section, a distance of 223 feet; thence west parallel to Kellogg Street, a distance of 347 feet; thence north parallel to the West line of said Section, 223 feet to the point of beginning, EXCEPT the west 50 feet thereof for road. Generally located Northeast corner of Greenwich and Lincoln.

BACKGROUND: The applicant is requesting a Conditional Use to operate a day care center and preschool within Woodland Lakes Community Church, which is currently under construction on the subject property. The subject property is 19.91 acres located at the northeast corner of Lincoln and Greenwich and is zoned "SF-5" Single Family Residential and "MF-18" Multi-Family Residential. The day care center is designed for 93 children attending all day, with an after school capacity of a total of 176 children. Day care centers for greater than 10 children are defined by the Unified Zoning Code as "Day Care, General" and require a Conditional Use in the "SF-5" Single Family Residential zoning district, which the portion of the subject property that will contain the proposed day care center is zoned.

The day care center will be housed within the church building, as illustrated on the attached site plan. The parking requirement for the proposed day care center is 58 spaces. The site plan shows that 63 spaces will be dedicated for use as day care parking. The remaining 233 spaces shown on the site plan are for the church. The parking requirement for the church, prior to any proposed

expansion, is 185 spaces. The day care center requires a loading area for 18 cars. The loading area shown on the site plan provides space for only 4 or 5 cars.

The surrounding area is characterized by developing urban properties along the I-35 corridor on the fringe of Wichita with commercial uses on the north side of the freeway and institutional uses on the south side of the freeway. The properties north of the subject property across I-35 are zoned "LC" Limited Commercial, "GC" General Commercial, and "LI" Limited Industrial and are developing with regional-scale retail uses in One Kellogg Place. The property east of the subject property is zoned "SF-5" Single-Family Residential and is developed with Seltzer Elementary School. The properties south of the subject property across Lincoln are zoned "SF-5" Single-Family Residential and are developed with single-family residences. The property west of the subject property across Greenwich is zoned "SF-20" Single-Family Residential and is used as a horse ranch.

CASE HISTORY: The subject property is in the process of being platted as the Woodland Lakes Community Church Addition, which was approved by the MAPC on January 10, 2002 and was scheduled to be considered by the City Council on July 2, 2002 at the time this report was prepared.

ADJACENT ZONING AND LAND USE:

NORTH: "LC", "GC", & "LI" Regional retail center
EAST: "SF-5" Elementary school
SOUTH: "SF-5" Single-family residences
WEST: "SF-20" Horse ranch

PUBLIC SERVICES: The subject property has access to both Lincoln and Greenwich, although the access drives to Lincoln are proposed to be constructed in the future with an expansion of the church. Lincoln is a collector street with no traffic volume data available. Greenwich is a two-lane arterial street with current traffic volumes of approximately 6,800 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Greenwich will increase to approximately 14,500 vehicles per day. The City of Wichita Capital Improvement Program contains a project to widen Greenwich to four lanes by 2009. Public water and sewer service are available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for low - and medium-density residential uses. The Comprehensive Plan considers schools, churches, and other similar uses as appropriate in low - and medium-density residential areas.

RECOMMENDATION: Based on the information available prior to the public hearing, planning staff recommends that the application be APPROVED, subject to the following conditions:

1. All requirements of Section III.D.6.i. of the Unified Zoning Code (attached) shall be met.
2. The maximum number of children to be accommodated in the day care center at any one time shall not exceed 176.
3. A loading area for the day care center shall be provided on-site as required by Section IV.A.14. and Section IV.A.15. (attached) of the Unified Zoning Code. The site plan shall be revised to illustrate the location of the loading area. The revised site plan shall be approved by the Planning Director and Traffic Engineer prior to the release of the Conditional Use resolution.
4. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
5. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by developing urban properties along the I-35 corridor on the fringe of Wichita with commercial uses on the north side of the freeway and institutional uses on the south side of the freeway. All properties south of I-35 that surround the subject property are zoned and used for residential or agricultural purposes. The proposed day care conforms with the zoning, uses, and character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is zoned "SF-5" Single-Family Residential and is currently being developed with a Church. The Unified Zoning Code permits the operation of a day care center within the church building with the approval of a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residential properties in the area should be minimized by the lighting and compatibility standards of the Unified Zoning Code and the landscape street yard and parking lot screening requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting residential properties in the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide in the Comprehensive Plan identifies this area as appropriate for low - and medium-density residential uses. The

Comprehensive Plan considers schools, churches, and other similar uses as appropriate in low- and medium-density residential areas.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (10-0).

9. **Review and endorse transportation projects for application to KDOT under the State's Local Partnership Program of Economic Development and Geometric Improvements, presenting Planner: Jamsheed Mehta.**

JAMSHEED MEHTA presented four project applications for State funding. Each year the Kansas DOT solicits applications from local units of government for transportation projects under three funding programs: "KLINK" funds provide resurfacing of City Connecting Links; Geometric Improvements (GI) funds allow modification of the intersection and roadway geometry to address safety on State-routes; and Economic Development funds allow street improvements that have a direct economic benefit to the area.

As the MAPC is also the designated MPO for the Wichita area, and even though these are state funds and not federal, KDOT requires that all applications from local communities must be presented to this body for endorsement.

The first project under the GI category from the City of Wichita is to improve the intersection of 47th Street and Broadway. US Highway 81 is on two legs of this intersection, is included in a "system enhancement" study currently underway. The application is for \$950,000 in state GI funds to implement the recommendations of that study which will be concluded sometime next year. The remaining \$2.85 million will have to come from City and/or other sources. Responding to other questions, Mr. Mehta clarified that the State's corridor study will quite likely include recommendations that deal with the highway ramps, and those will be the responsibility of KDOT. This application would cover improvements away from the interchange focusing on the street intersection and access to adjacent streets and highways.

The second project from the City of Wichita is under the Economic Development category, to improve roadway segments that connect Dugan/Kellogg interchange to Hoover/Harry intersection via Pueblo Road. \$2 million in state funds are being requested and another \$1 million is required as local match. The section of Hoover, south of Harry Street, is already funded with state's Eco-Devo funds, and is scheduled for letting later this year. This application complements that project, addresses drainage issues, and opens up the area for additional economic development.

The third project is from the City of Maize, to improve Maize Road from 45th Street to 53rd Street. MAPD staff is not aware of any major economic activity to warrant the improvement under the Eco-Devo category, but will support the City of Maize if that's their priority. Total cost of the project is about \$3 million. Mr. Mehta noted that Wichita, Sedgwick County and Maize are jointly pushing for an interchange of the NW Bypass on Maize Road, but the location will be in the mid-mile between 37th and 45th Street, and KDOT's consulting engineers have not made any determination yet to locate any interchange on Maize Road.

The fourth project is from the City of Haysville for improving a half-mile section of 71st Street between Broadway and KTA Bridge. Haysville feels that this project will improve the flow of traffic to/from the Turnpike interchange ramps, and make the area more attractive for economic development. The total cost of this project is under \$1 million.

MOTION: To endorse all four projects as presented

MCKAY moved, **ANDERSON** seconded the motion, and it carried (10-0).

10. **Briefing on developing a Public Involvement Process (PIP) in transportation planning, presenting Planner: Jamsheed Mehta.**

MEHTA Public Involvement Process (PIP).

The MPO is required to have an official process on Public Involvement, and as part of the ISTEA regulations, the MPO has one from the early 1990s. Federal regulations require us to periodically review the Public Involvement Process, and for that reason, plus the fact that newer requirements have to be addressed, that we are briefing you on the issues that surround it.

Mr. Mehta presented a series of slides illustrating the federal requirement as it applies to all MPO work items; plans, programs, projects and processes. In fact the process must cover early involvement from citizens, and also allow opportunities beyond the Planning Department and MPO functions, i.e. at the project development level with Public Works.

After defining the terms and US DOT definitions of public involvement, Title VI, Environmental Justice, and examples of performance standards, Mr. Mehta illustrated the MPO's TIP process as an example of MPO's reliance on the City and County's CIP processes, and by federal definition, there may not be adequate opportunity for public involvement.

The development of a comprehensive Public Involvement Process (PIP) is part of the MAPD's work program for this year, and staff intends to present a PIP proposal before the MPO before the end of the year. In the interim, MAPD staff will work closely with City and County staff from Public Works and their respective Public Information Officers, to identify existing involvement opportunities,

suggesting areas where improvements can be made, and define the role each department must play in implementing a PIP. The MPO (MAPC) will be updated periodically on the progress of this work activity.

ANDERSON Where is the City of Wichita preparation of the CIP?

MEHTA 2002-through 2011. I don't think the process has started for the next update.

KROUT There has not been a consensus at that City but the County CIP Committee is moving a little faster but the City hasn't started there process.

HENTZEN After hearing all that, you are telling us that we ought to do, why don't you just let the City and County Commission do that? Because we meet every other week; we would be meeting every week. I am telling you are getting into a web of bologna. I thought we were here to decide on Land uses and zoning cases you are getting into a web of government crap.

ANDERSON The truth of the matter is that these are federal requirements and if we are going to get federal dollars and to spend money on staff, we will have to do this.

MEHTA We have been telling State and Feds that the public involvement is being done on the CIP County-and City CIP level. We have to sign off on this every year. If agreements are in place, that might be the way to do it.

MARNELL It doesn't seem that hard to do; we are setting out what public involvement. Should be in their community and we can do it with the involvement of the City and County Information Officers.

BISHOP As part of this process what you have told us you will bring a start of a plan and a draft plan include some points in the public involvement evening meetings where average citizens can attend these meetings.

MEHTA The draft document will have a 45-day wait period before the final is put out that should provide opportunity for the public to also bring up the issue.

11. OTHER MATTERS

KROUT We have been working with the Delano group on the development of a draft of a overlay district. They would like to meet with the Advance Plan Committee to brief you on that. That would be somewhere about a month from now; one day would be on August 1st, after Subdivision, or the next Thursday August 8th, let's say 11am before Planning Commission.

MICHAELIS How about 3 p.m., on 8-1-02. or later than 3 p.m.

The Metropolitan Area Planning Department informally adjourned at 4:10 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2002.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

